

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF OKLAHOMA**

DINA F. ACKERMAN,	)	
	)	
Plaintiff,	)	
	)	
	v. )	CIV-14-22-FHS-KEW
	)	
CAROLYN W. COLVIN,	)	
Acting Commissioner of the Social	)	
Security Administration, <sup>1</sup>	)	
	)	
Defendant.	)	

**ORDER**

On March 27, 2015, the United States Magistrate Judge for this District filed a Report and Recommendation in this case. An objection was filed. In the objection, Plaintiff argues that the ALJ failed to perform a proper determination at steps 4 and 5 of the sequential evaluation process and the ALJ failed to perform a proper credibility determination.

The Report and Recommendation suggest that the case be affirmed. However, this court declines to follow the recommendations of the Magistrate. The court finds this case should be reversed and remanded for further administrative proceedings regarding the issue of Plaintiff's back pain being identified as a severe impairment but not mentioned again after

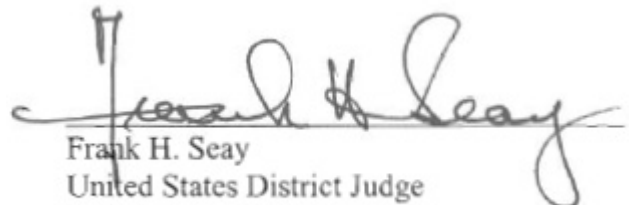
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<sup>1</sup>The Court has been informed by Defendant that on February 14, 2013, Carolyn W. Colvin became the Acting Commissioner of Social Security. Pursuant to Rule 25 (d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin is automatically substituted for Michael J. Astrue as the defendant in this action. Thus, this suit will proceed with this substitution in effect. See 42 U.S.C. Sec. 405 (g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.")

Step 2.

Upon consideration of the entire record and the issues herein, this Court finds and orders that the Report and Recommendation of the United States Magistrate Judge be **OVERRULED**. Accordingly, this case is **REVERSED AND REMANDED** to the defendant under the fourth sentence of 42 U.S.C. §405(g) for proceedings consistent with this order.

**IT IS SO ORDERED** this 30<sup>th</sup> day of March, 2015.



Frank H. Seay  
United States District Judge  
Eastern District of Oklahoma